

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION**

KRISTINE R. REDNOUR,)
)
Plaintiff,)
v.) CAUSE NO. 1:13-CV-0320-SEB-DKL
)
WAYNE TOWNSHIP FIRE DEPT.;)
WAYNE TOWNSHIP,)
)
Defendants.)

**MOTION TO IMPOSE SANCTIONS PURSUANT TO FEDERAL CIVIL PROCEDURE
RULE 37(c)(1)**

Pursuant to Fed. R. Civ. P. 37(c)(1), Defendants Wayne Township Fire Department and Wayne Township ("WTFD"), by counsel Christine L. Zook, respectfully request that this Court enter an order imposing sanctions against Plaintiff. In support of their Motion, Defendants submit the accompanying Memorandum in Support. The grounds for Defendants' Motion are the following:

1. In her Response in Opposition to Defendants' Motion for Summary Judgment (Doc. 53), filed on May 22, 2014, Plaintiff discloses a witness, Dr. James Brillhart, a doctor who she consulted with for issues relating to her diabetes. Plaintiff has not previously disclosed Dr. Brillhart to Defendants.
2. Plaintiff failed to disclose the witness's name in her Initial Disclosures, in her Preliminary Witness List, and in response to an interrogatory that sought the names of doctors who Plaintiff consulted regarding her diabetes.
3. Rednour was required to disclose any persons likely to have discoverable

information that she may use to support its claims or defenses, and Rednour was required to supplement her disclosures during the proceedings. Fed. R. Civ. P. 26(a)(1)(A)(I); Fed. R. Civ. P. 26(e).

4. Pursuant to Federal Procedure Rule 37(c), sanctions are appropriate when a party fails to identify a witness as required by Rule 26(a) or (e).
5. Due to Plaintiff's failure to disclose the witness prior to the close of liability discovery, Defendants were unable to take the witness's deposition, question Rednour or her endocrinologist (Dr. Wentworth) about this witness and any alleged consultations or treatment during their depositions, and were unable to seek Plaintiff's medical records from this witness.
6. WTFD requests that this Court impose the following sanctions against Plaintiff due to her failure to disclose the witness: (1) reopen liability discovery so that Defendants may request and receive Plaintiff's medical records from the witness and, if necessary, depose the witness and reopen the depositions of Plaintiff, Dr. Wentworth and any other witness necessary as a result; (2) stay Defendants' time to file a Reply in support of their Motion for Summary Judgment; (3) order that Rednour, or her counsel, pay the reasonable expenses, including attorney's fees, caused by the failure, including the preparation of this Motion and the costs and expenses of reopening Rednour's deposition, Dr. Wentworth's deposition and any other witness necessary as a result.

WHEREFORE, Defendants respectfully request that this Court (1) order liability discovery reopened so that Defendants may obtain a release or otherwise serve written

discovery on Dr. James Brillhart and, if necessary, reopen any necessary depositions to inquire about Rednour's consultation with Dr. James Brillhart, and depose Dr. James Brillhart; (2) stay Defendants' time to serve and file a Reply in support of Summary Judgment; (3) order Plaintiff, or her counsel, pay the reasonable expenses, including attorney's fees, caused by the failure including the preparation of this Motion and the costs and expenses of reopening Rednour's deposition and Dr. Wentworth's deposition; and (4) grant Defendants all other appropriate relief.

Respectfully submitted,

/s/ Christine L. Zook

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 30th day of May, 2014, the foregoing was filed electronically. Notice of this filing will be sent to the following parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

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